

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK----- X
SHOLEM WEISNER,

Plaintiff,

-against-

GOOGLE LLC and SHMUEL NEMANOV.

Defendant and Involuntary Party.
----- X**ORDER**

23 Civ. 8186 (AKH)

20 Civ. 2862 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendant's motion to dismiss is denied. Defendant has shown that the claims of plaintiffs' '839, '667 and '068 patents are substantially the same as the claims of their '202 patent, and are subject to the same infirmities as the '202 patent. However, at this stage, accepting all plausible allegations as true, and drawing all inferences in favor of plaintiffs' Amended Complaint, the Court is unable to determine if the '839, '667 and '068 patent claims differ materially from those of the '905 and '911 patents. Although I dismissed plaintiffs' claims of infringement of the latter two patents, the Court of Appeals reversed, holding that notwithstanding the abstract nature of plaintiffs' patent claims, plaintiffs had sufficiently alleged under the second ground of *Alice Corp. v. CLS Bank International*, 573 U.S. 208, 217 (2014), an "inventive concept," which "prioritizes searches based on visits to a location" and which "overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink." *Weisner v. Google, LLC*, 51 F4th 1073, 1088 (Fed. Cir. 2022). Accordingly, defendant's motion is denied, without prejudice to renewal at a later and appropriate state of this litigation. Defendant shall file its Answer by September 3, 2024. The

parties shall attend a status conference on September 26, 2024, 2:30 pm, Courtroom 14D, to plan for a *Markman* hearing.

The Clerk shall terminate ECF No. 25.

SO ORDERED.

Dated: August 13, 2024
New York, New York

____/s/ Alvin K. Hellerstein_____
ALVIN K. HELLERSTEIN
United States District Judge